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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
LES UTLEY TO APPEAR FOR
EXAMINATION PURSUANT TO
FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Les Utley ("Utley") to appear, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for examination at the office of Merrill

1 Corporation, British Pacific Center, 8899 University Center Lane, Suite 200, San Diego,
2 California 92122, on a business day no earlier than ten (10) business days after the filing
3 of this Motion and no later than January 15, 2008 (or at such other mutually agreeable
4 location, date, and time) and continuing from day to day thereafter until completed.
5

6 This Motion is further explained in the following Memorandum.

7 **Memorandum**

8 The Movant seeks information concerning various transactions and other dealings
9 between USACM, the other debtors in the above-captioned cases (together with USACM,
10 the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related
11 entities. The Movant seeks this information to assist in the collection of the assets and the
12 investigation of the liabilities of the Debtors.
13
14

15 The requested discovery from Utley is well within the scope of examination
16 permitted under Bankruptcy Rule 2004, which includes:

17 [t]he acts, conduct, or property or . . . the liabilities and financial condition
18 of the debtor, or . . . any matter which may affect the administration of the
19 debtor’s estate, or to the debtor’s right to a discharge. In a . . .
20 reorganization case under chapter 11 of the Code, . . . the examination may
21 also relate to the operation of any business and the desirability of its
22 continuance, the source of any money or property acquired or to be acquired
23 by the debtor for purposes of consummating a plan and the consideration
24 given or offered therefore, and any other matter relevant to the case or to the
25 formulation of a plan.¹
26

23 **Conclusion**

24 Accordingly, the Movant requests that this Court enter the form of order submitted
25 with this Motion.
26

¹ FED.R. BANKR. P. 2004(b).

1 Dated: December 12, 2007.

2 **DIAMOND MCCARTHY LLP**

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